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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/772,189 | 01/29/2001 | Sheldon Sturgis | 13578.1US01 | 9119 |

23552 7590 05/23/2003

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EXAMINER

PASCUA, JES F

ART UNIT PAPER NUMBER

3727

DATE MAILED: 05/23/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 09/772,189 | Applicant(s) STURGIS ET AL. | |
| | Examiner Jes F. Pascua | Art Unit 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 17-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>14, 15</u> | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/29/03 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, does not provide antecedence basis for "the sidewall each being a single sheet of packaging material".

Claims that have not been specifically mentioned are rejected since they depend from claims rejected under 35 U.S.C. § 112, first paragraph.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 8-10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Mykol.

Mykol discloses a bag 7 having first and second sidewalls, the sidewalls each being a single sheet of material. The bag has a rectangular shape, a vertical centerline and a pouring region 12 formed on one side of the centerline. A handle 16 (formed from strap 14) is operably connected to the bag via rings 18, 19. The implicit flexible nature of strap 14 inherently permits the handle 16 to be located on an opposite side of the vertical centerline from the pouring region. Mykol also discloses a carrying handle 17 positioned proximal to an end edge of the bag and substantially centered about the centerline of the bag. Furthermore, ring 18, opposite pouring region 12, and ring 19, catercorner pouring region 12, are each inherently capable of being used as handles.

6. Claims 1, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Burbridge.

Burbridge discloses a bag A having first and second sidewalls, the sidewalls each being a single sheet of material. The bag has a rectangular-like shape, a vertical centerline and a pouring region C formed on one side of the centerline. A loop F located on an opposite side of the vertical centerline from the pouring region and catercorner therefrom. The loop F is inherently capable of being used as a handle.

7. Claims 1-3, 10, 11 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by British Patent No. 1 598 843.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4-7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over British Patent No. 1 598 843 in view of Onishi (Japanese Patent No. 0023955).

British Patent No. 1 598 843 discloses the claimed device except for the handling hole 26 having additional material and a ring. Onishi discloses that it is known in the art to provide an additional material and a ring to an analogous handling hole. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the handling hole of British Patent No. 1 598 843 with the additional material and ring of Onishi, in order to reinforce the handling hole.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over British Patent No. 1 598 843 in view of Schneider et al.

British Patent No. 1 598 843 discloses the claimed device except for pouring region having a plurality of perforations. Schneider et al. discloses that it is known in the art to provide a plurality of perforations 16 in an analogous pouring region 27. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pouring region of British Patent No. 1 598 843 with the plurality of perforations of Schneider et al., in order to define a pouring hole.

11. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warr '438.

Warr '438 discloses the claimed invention except Warr '438 does not show the second hand (the lower hand in Fig. 4) gripping a second corner that is catercorner from the corner gripped by the first hand. It would have been an obvious matter of choice to grip the catercornered, second corner of Warr '438 with the second hand, since applicant has not disclosed that gripping a catercornered, second corner with the second hand solves any stated problem or is for any particular purpose and it appears that the Warr '438 invention would perform equally well gripping the catercornered, second corner with the second hand in order to pour the contents through a hole. Furthermore, applicant's claimed handle is found in Warr '438 where the first hand (the upper hand in Fig. 4) grips the first corner.

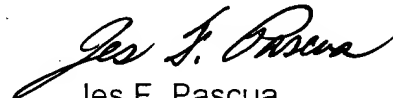
Response to Arguments

12. Applicant's arguments with respect to claims 1-16 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 703-308-1153. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.



Jes F. Pascua
Primary Examiner
Art Unit 3727

JFP
May 21, 2003